

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN
CALIFORNIA EDISON COMPANY (U 338-E)
Regarding the Future Disposition of the Mohave
Generating Station.

Application 02-05-046

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NATURAL RESOURCES DEFENSE COUNCIL'S
NOTICE OF INTENT TO CLAIM COMPENSATION**

This ruling responds to a Notice of Intent (NOI) to claim compensation filed by The Natural Resources Defense Council (NRDC) on October 28, 2002, in the above referenced proceeding. No party filed a response. This ruling addresses the requirements of the Public Utilities Code, Division 1, Part 1, Chapter 9, Article 5, Section 1804. All statutory references are to the Public Utilities Code.¹

Under Section 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." The Prehearing Conference (PHC) in this proceeding was held on October 11, 2002. NRDC's NOI is timely filed.

¹ All statutory references are to the Public Utilities Code.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI.
Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the

intervenor is a customer, as defined in Section 1802(b), and identify whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied.

Customer Status

NRDC is a non-profit membership organization with a long-standing interest in minimizing the societal costs of the reliable energy services for California’s economy. NRDC is a formally organized group authorized pursuant to its bylaws to represent the interests of its members, nearly all of whom are residential customers. NRDC’s bylaws state in Section 1.02(a) that: “Individual membership in the Corporation shall constitute an authorization for the Corporation to represent members’ interests in regulatory and judicial proceedings within the scope of the activities of the Corporation.”

D.98-04-059 also requires NRDC to provide the percentage of how many of its customers are residential ratepayers. NRDC does not poll members to determine the breakdown between residential and other utility customers, but NRDC has at least 30,000 members who are residential customers of Southern California Edison Company and that qualifies NRDC as a Category 3 customer pursuant to Section 1802(b).

D.98-04-059 requires groups such as NRDC to include in their NOI’s a copy of the authorization in their articles of incorporation to represent residential customers, or to provide a reference to a previous filing. NRDC previously included a copy of the relevant portions of its articles of incorporation, which authorizes NRDC’s representation of the interests of residential customers, in its

NOI in Rulemaking (R.) 02-10-001. The articles of incorporation have not changed since the time of those earlier submissions.

Financial Hardship

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. For a group or organization, Section 1802(g) defines financial hardship as a state in which “the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.”

Section 1804(b)(1) states in part:

“A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.”

NRDC received a finding of significant financial hardship in a ruling issued by Administrative Law Judge (ALJ) Sarah Thomas in Application 01-08-028, dated November 2, 2001. Since this NOI was filed on October 30, 2002, this present proceeding clearly commenced within one year of the date of ALJ Thomas’s findings, so the rebuttable presumption applies in this case. A finding of significant financial hardship in no way, however, ensures compensation for NRDC (Section 1804(b)(2)).

Pursuant to D.98-04-059, an intervenor must state in their NOI how it will represent customer interests that would otherwise be underrepresented. While other intervenors and parties to this proceeding represent the interests of consumers, NRDC represents customers with a concern for the environment that distinguishes their interests from the interests represented by other consumer advocates in this case. NRDC represents its members’ interest in the utility

industry's delivery of cost-effective energy efficient programs, renewable energy resources, and other sustainable energy alternatives. NRDC also plans to coordinate its participation with other parties to avoid duplication.

Planned Participation

Section 1804(a)(2)(A)(I) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. NRDC has already actively participated in the proceeding by attending the October 11, 2002, PHC and serving testimony. NRDC expects to be an active party in this proceeding and intends to pursue discovery, prepare testimony, participate in any hearings that are conducted, and submit briefs and comments as required.

Estimated Compensation Request

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. At this time, NRDC estimates a total projected budget of \$167,629 for this proceeding. NRDC's proposed budget for this matter is as follows:

Dan Lashof	(102 hours @ \$250/hour)	\$25,500
Attorney David Beckman	(89 hours @ \$275/hour)	\$24,475
Attorney Andrew Wetzler	(50 hours @ \$220/hour)	\$11,000
Attorney Ralph Cavanagh	(13 hours @ \$275/hour)	\$3, 575
Estimated expenses		<u>\$ 4,000</u>
Total		\$68, 516
Grueneich Resource Advocates		\$91, 726
Related expenses		<u>\$7,387</u>
Total		\$167, 629

This ruling does not address the merits of NRDC's final compensation claim. The reasonableness of the hourly rates requested for NRDC's representatives and expert witnesses will be addressed in their Request for Compensation.

IT IS RULED that:

1. The Natural Resources Defense Council's (NRDC) Notice of Intent was timely filed.
2. NRDC has met the eligibility requirements of Public Utilities Code Section 1804(a), including the requirement that it established significant financial hardship, and NRDC is found eligible for compensation in this proceeding.
3. NRDC is a customer as that term is defined in Section 1804(b) and is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.
4. NRDC fulfilled the requirements of Section 1804(a)(2)(A) by providing a statement of the nature and extent of its planned participation and an itemized estimate of the compensation it expects to request.
5. A finding of eligibility in no way assures compensation.
6. Parties requesting compensation shall make every effort to reduce duplication of contribution.

Dated May 14, 2003, at San Francisco, California.

/s/ Carol Brown
Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Natural Resources Defense Council's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated May 14, 2003, at San Francisco, California.

/s/ Helen Friedman
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.